

1 Frederick L. Baker  
2 Correctional Training Facility  
3 Central-Facility  
4 C-22918  
5 P.O. Box 689, B-321  
6 Soledad, CA 93960-0689

ORIGINAL

**FILED**  
FEB 20 2008  
RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND

7 Petitioner in Pro Se

8 **IN THE UNITED STATES DISTRICT COURT**  
9 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

10 In re ) Case No. CV 07 6289 CW  
11 )  
12 FREDERICK LEE BAKER ) **DECLARATION OF CLARIFICATION OF**  
13 ) **ISSUES IN SUPPORT OF PETITION**  
14 ) **FOR WRIT OF HABEAS CORPUS**  
15 )  
16 On Habeas Corpus. )  
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14 I Frederick Lee Baker, declare:

15 1. That I am a resident of the State of California  
16 and the Petitioner in the above entitled matter. If sworn  
17 as a witness, I would competently testify to the facts contained  
18 herein because they are within my personal knowledge.

19 2. That the purpose of this declaration is to simplify  
20 and bring clarity to the alleged "complexities of the issues."  
21 (See Exh. C.)

22 3. That because of the Monterey Superior Court's  
23 failure to compel the state to follow habeas corpus procedure  
24 the state record was not fully developed to reflect a true  
25 and complete determination of the facts (28 U.S.C. § 2243;  
26 Pen. Code § 1484).

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28 Decl.(5) of Fred L. Baker in Supp. of the Petition for Writ of Habeas Corpus

1           4.       That had the record been fully developed the  
2 following facts would have been addressed:

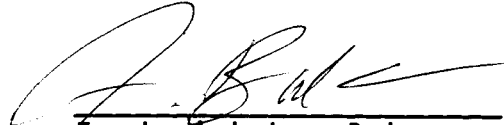
3           4.a)     The method that was used to determine that a  
4 malfunction of the recordings equipment was  
5 the cause of the September 24, 2004 hearing  
6 decision not being recorded;

7           4.b)     the chief counsel and/or designee failed to  
8 utilize the correct application of the law  
9 (statutes or regulations) specifically Penal  
10 Code § 3041(b) and California Code of Regulations,  
11 title 15, § 2041(h), they failed to consult with  
12 the commissioners who conducted the hearing; and

13          4.c)     By failing to utilize 15 CCR § 2254 the chief  
14 counsel and/or designee did not avail themselves  
15 of a process for establishing all portions of  
16 the suitability hearing to ensure a statutory  
17 right to review (i.e., establishing a written  
18 summary of the hearing, a verbatim transcript  
19 of the hearing, including or incorporating by  
20 reference the evidence considered, the evidence  
21 relied on, and the findings of the hearing panel  
22 with supporting reasons [Pen. Code § 3042(c)].)

23          5.       That because the state record was not fully  
24 developed, a federal adjudication is required by this Court to  
25 ensure that Petitioner receives a full and fair determination  
26 of the facts, as justice and the law requires.

1 I declare under penalty of perjury that the foregoing is  
2 true and correct and that this declaration was executed  
3 2/19/, 2008 at Soledad, California.

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6 Frederick Lee Baker  
7 Petitioner, Pro Se  
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27 Decl.(5) of Fred L. Baker in Supp. of the Petition for Writ of Habeas Corpus  
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**DECLARATION OF SERVICE BY MAIL**

Case Name: FREDERICK LEE BAKER

I, the undersigned, hereby certify that I am a resident of the state of California, County of Monterey. I am over the age of 18 years and am a party to the within action. My business/residence address is P.O. Box 689, Soledad, California, 93960-0689.

On 2/18, 2008, I caused to be served on the parties a true and correct copy of the attached **MOTION FOR JUDICIAL NOTICE "Hayward v. Marshall", Case No. 06-55392, 2008 U.S. App. LEXIS 40, Declaration of Clarification, and Civil Docket No. ED CV 06-1323 JSL (MAN)** as follow:

**U.S.MAIL**

Office of the Attorney General  
455 Golden Gate Ave., Suite 11000  
San Francisco, CA 94102-7004

I declare under penalty of perjury that the following is true and correct.

  
Declarant